Remarks

The Office Action dated March 27, 2008 has been carefully considered. By present amendment, As no new matter is involved, entry of the amendment is believed warranted and is therefore respectfully requested. This Amendment, taken with these Remarks is believed to establish patentability of the claims over the asserted references and allowance is therefore respectfully requested.

Applicants acknowledge and appreciate withdrawal of the finality of the last Office Action.

Claims 76 - 119 remain pending and claims 76, 83-93 and 119 are currently subject to examination.

35 U.S.C. §103

Claims 76, 83-93, and 119 are rejected under 35 U.S.C. §103(a) as being unpatentable over Japanese Patent Document 10-276961 to Watanabe et al. ("Watanabe"), in view of U.S. Patent Serial No. 5,306,435 to Ishikawa et al. ("Ishikawa") and Canadian Patent No. 1052685A to Wu et al. ("Wu"). Specifically, the Examiner asserts that Watanabe discloses a method for treating leather shoes comprising spraying a water solution of a gel detergent inside the shoes by pressure, to remove dirt on a shoe without harming the shoes, and also odor and fungi. The detergent is composed of palm oil and soap (including a surfactant), amino acid group containing water at pH 5, orange fruit surfactant, herbal oil extracts, and enzyme protease. The inner part of the shoes is disclosed as wiped by a brush, while the outside of the shoes is disclosed as being quickly washed using a gel detergent B made by mixing palm oil, glycerin, palm kernal oil, lanolin and wax with acidic water. According to the Examiner, Watanabe teaches that a softening agent is sprayed and dried, then a fluorine containing water repellent is sprayed on the outer layer of the shoes. The Examiner further asserts that Watanabe discloses that the leather is ordinary leather, but is silent about whether or not significant levels of a tanning agent such as Chromium is removed from the leather during washing.

The Examiner maintains that it is well-known in the art that ordinary leather for making cloth and shoes generally is a tanned leather, and the leather is tanned using conventional tanning

agents such as chromium salt, as evidenced by Ishikawa which is applied for the teaching that chromium salt is generally used for tanning leather and tanned leather is used for making shoes. The Examiner concludes that the ordinary leather in Watanabe is therefore tanned leather. Since Watanabe discloses that washing by the methods of Watanabe does not damage the shoes, the Examiner "takes official notice that the tanned leather stays practically intact after washing, i.e. the washing does not remove any significant amount of components of the leather including any tanning agent such as chromium. Further, the Examiner takes the position by implication that since the detergent of Watanabe is disclosed as capable of removing dirt, the detergent must deliver a calcium/magnesium removal agent to the shoes "because dirt normally contains calcium and magnesium as evidenced by the Wu teaching that a cleaning composition for casual leather shoes comprising surfactant, lustering agent, colloid, moisture retainer, and deionised water (gel) removes calcium and magnesium." This rejection is traversed and reconsideration is respectfully requested.

Present independent claim 76 is directed to a method for treating one or more shoes comprising at least one surface made from a natural leather. The method comprises contacting the one or more shoes directly or indirectly with one or more treating compositions, each of which comprises one or more benefit agents that imparts one or more desired benefits to the one or more shoes when the treating composition is applied directly or indirectly to the one or more shoes prior to and/or during and/or after washing the one or more shoes with or in an aqueous medium, wherein said treating composition is formulated to deliver an effective level of a calcium/magnesium removal agent without removing significant levels of chromium from the natural leather so that any damage as a result of washing the one or more shoes with or in an aqueous medium with application of the treating composition is reduced compared to washing the one or more shoes with or in an aqueous medium without application of the treating composition.

As a preliminary matter, Applicants submit that the Examiner has mischaracterized the cleaning methods disclosed by Watanabe. Specifically, Watanabe does not disclose or suggest that the treating compositions provided by Watanabe do not damage leather shoes any less than other detergents. Rather, Watanabe discloses that conventionally washing the interior of a shoe

made of leather was avoided, or at best, simple wiping or sprinkling powerders were employed, in order to avoid damaging shoes. With respect to cloth shoes Watanabe notes that these may be washed by scrubbing/brushing but that yellowing and aging of the appearance of the shoe would occur and dirt would not wash out of the interior of the shoe. Watanabe claims to solve these problems by spraying a detergent under pressure so that the detergent is dispersed uniformly in side the shoe without scrubbing or brushing or requiring that the detergent remain in the shoe for long periods of time, thus it does not damage leather. In this context it is clear that Watanabe is comparing the problem in the art associated with damage to leather shoes by mechanical agitation and brushing, versus sparing that damage by merely spraying at pressure. Watanabe is not referring to the effect of the detergent nor does Watanabe ever suggest that the detergent itself does not damage, or reduces damage to shoes. Applicants further submit that the cite to the Watanabe Abstract regarding the removal of odor and fungi refers to the use of ozone drying methods not relevant to this analysis.

The Examiner specifically notes Example 1 as disclosing a method of treating "ordinary" leather that purportedly would not damage the leather portion of a shoe. The detergent comprises palm oil, amino acids, soap, duck mill oil, extract of oranges, where the soap is diluted 3 ml. into 1 liter of water at pH 5. With respect to not damaging the leather, Watanabe discloses that the pressure of application should be adjusted so as not to damage the leather [see P14]. Further in this section, Watanabe discusses generally embodiments using bleaching and sterilizing agents. Further Watanabe discloses step 3 in the method as brushing the inside of the shoe carefully with a vinyl brush, and steps 4-5 comprising soaking up the wash and detergent with a nylon sponge, wiping off moisture with a dry cloth and then sprinkling an acid at pH 2 into the shoe. Step 6 comprises suctioning the inside of the shoe to remove large debris and excess moisture, and step 7 involves washing the outside of the shoe "promptly" with a different detergent B. B is a gel comprising acidic water and various oils and fats. The shoes is wiped with cold water, lightly dried and an unidentified agent is applied to the exterior of the shoe. The shoes are then placed in a sealed container and contacted with ozone for 1-2 hours (see P15-16]. Thereafter, charcoal is placed in the inside of the shoe for 24 hours. Watanabe discloses that the fact that the treatment from inception until drying takes less than 15 minutes preventing mold formation and mechanical damage to the shoe.

The second example relates to a similar process for treating "nap-raising" leather except that after the step of adding dried charcoal to the inside of the shoe for 24 hours, a fluorine-repelling system is sprinkled over the exterior of the shoe. Once again, Watanabe notes that by keeping the actual wash portion of the process to less than 15 minutes, mold formation and bruising are prevented.

When the effects of the invention are discussed, Watanabe notes that "as a result of shortening working hours" (P18) and as a result of the fact that the detergent never permeates the core of the shoe (P18), mold and damage to the leather are prevented. Watanabe further notes that since the application pressure may be adjusted, mold and damage to leather may be prevented (P19). Interestingly, Watanabe notes that avoiding the use of an "oppressive" brush prevents a reduction in the value of the shoe due to exfoliation of the "brand" name (P20).

Applicants make the following significant observations. First, Watanabe never discloses that the detergent spares the leather portion of the shoe. Watanabe is concerned with deep cleaning of the inside of a leather shoe without subjecting the shoe to dry cleaning which causes mechanical damage or "bruising" to the leather, and without subjecting the shoe to long periods of moisture exposure which promotes growth of molds. The reduction of damage to leather discussed by Watanabe is strictly with respect to the ability to eliminate a need to dry clean or mechanically agitate the shoe. Watanabe does not discuss the impact of his proposed detergents on the leather portions of a shoe. Second, Watanabe fails to teach or disclose methods of treating a shoe that is intended for washing in an aqueous medium whereby the treatment relatively reduces wash -related damage to the shoes. In fact, Watanabe avoids subjecting shoes to any sort of immersion or agitation and notes the avoidance of both of these facets of ordinary cleaning as being avoided by his methods. Third, Watanabe fails to teach or disclose a treatment formulated to remove Ca and Mg ions without removing desirable chromium from the leather.

Watanabe is completely unconcerned with removal of chromium from the leather portion of the shoes. Watanabe discloses reduction of detergent-related damage by limiting exposure to the detergent and by exposing the shoe to extensive ozone-drying and charcoal deactivating

processes. The actual treatment compositions comprising a detergent appear fairly harsh on a relative basis, and are disclosed to include a high percent of soap (28%, e.g. P13), acidic conditions, and the presence of anionic surfactant systems ((P13) specifically taught as having the potential to remove chromium by the instant specification (see, e.g. page 25, lines 26-35, providing guidance on formulation ingredients which preserve chromium in leather). The entire disclosure of Watanabe including the guidance therein is completely irrelevant to the damage caused to shoes by washing via conventional means in an aqueous medium. Watanabe discloses a 26 hour process that does not include washing shoes in an aqueous medium and, in fact, specifically seeks to avoid prolonged contact of the shoes with a moist environment.

Ishikawa, applied to evidence that it is common knowledge in the art that "chromium salt is generally used for tanning leather and tanned leather is used for making shoes," fails to overcome the deficiencies of Watanabe with respect to establishment of the prima facie case. With respect specifically to the Examiner's suggestion that a disclosure of an article made from leather assumes the disclosure of the use of chromium salts to tan the leather, Applicants note that it is common knowledge to the art of tanning that leather may be tanned by either vegetable or mineral tanning processes, with chromium salts only implicated in the latter. In fact, many cultures in Asia prefer vegetable tanning, which uses tannin, a natural substance derived from tree bark. Wu, applied to support the proposition that dirt normally contains calcium and magnesium so that anything that removes dirt also removes these elements, also fails to teach or suggest method steps capable of being imported into Watanabe to effectuate the present invention. Summarily, the deficiencies of Watanabe with respect to the prima facie case are far more extensive that elements asserted as suggested by the secondary references.

To establish prima facie obviousness of the claimed invention, all the claim limitations must be taught or suggested by the prior art, *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (CCPA 1974).In order to render a claimed invention obvious, the prior art must enable one skilled in the art to make and use the claimed invention, *Motorola, Inc. v. Interdigital Tech. Corp.*, 43 U.S.P.Q.2d 1481, 1489 (Fed. Cir. 1997). Watanabe fails to teach or suggest methods for treating shoes comprising application of a treating composition prior to and/or during and/or after washing the one or more shoes with or in an aqueous medium, and fails to disclose treating

compositions formulated to deliver an effective level of a calcium/magnesium removal agent without removing significant levels of chromium from the natural leather, and fails to disclose or suggest treating compositions that reduce damage to a shoe as a result of washing in an aqueous medium when compared to washing the shoe with or in an aqueous medium without application of the treating composition. In fact, Watanabe teaches avoidance of exposing a shoe to washing in an aqueous medium. The Examiner's if-then mandate with respect to "if leather is disclosed then it must contain chromium" fails because vegetable tanning using tannin is also a common tanning method. Irrespective of this, neither secondary reference teaches or suggests the deficiencies of Watanabe with respect to methods employing treatment compositions for use in relation to washing in an aqueous medium where wash-related damage is thereby reduced.

Further, the combination of references fails to enable the instant invention since the methods of Watanabe demand immediate bagging and ozone-drying of the treated shoes followed by treatment with dry charcoal as critical aspects of the invention, steps which would make further washing of the shoe in accordance with the present methods impossible with or without importation of the teachings of the secondary references.

Hence, the rejection of claims 76, 83-93, and 119 under 35 U.S.C. §103(a) as being unpatentable over Watanabe in view of Ishikawa and Wu is overcome. Reconsideration is respectfully requested.

Claims **85, 90-92, and 119** are rejected under 35 U.S.C. § 103(a) as being unpatentable over Watanabe in view of Japanese Patent Document No. 09271597 to Yoshioka et al. ("Yoshioka"). The Examiner notes that Watanabe fails to teach that shoes are placed into a flexible bag but applies Yoshioka for the disclosure that shoes can be washed in flexible bags to prevent damage to shoes. This rejection is traversed and reconsideration is respectfully requested.

Applicants note that all these claims depend directly or indirectly from base claim 76. The nonobviousness of claim 76 is established above. Further, Applicants note that claim 90 is directed to the method as recited in claim 76 which further comprises placing the one or more

shoes in a flexible article which may either be done by placing the one or more shoes in the same flexible article, or placing the one or more shoes in separate flexible articles, and placing the article or articles into a wash solution. Clearly, practice of this dependent embodiment is impossible in view of the fact that the treatment method of Watanabe requires that the treated shoes be immediately placed into a sealed container and contacted with ozone, and then removed and contacted with dry charcoal. These method steps are completely 100% mutually exclusive with placing the treated shoes into a flexible article according to the present invention (which is permeable to wash water) and placing the shoes in a wash solution, both steps required by claim 90 from which claims 85, 91, 92 and 119 depend.

Dependent claims are nonobvious under section 103 if the independent claims from which they depend are nonobvious. *Hartness Int'l, Inc. v. Simplimatic Eng'g Co.*, 819 F.2d 1100, 1108, 2 USPQ2d 1826, 1831 (Fed. Cir. 1987). Furthermore, references relied upon to support a rejection under 35 U.S.C. §103 must provide an enabling disclosure, i.e., they must place the claimed invention in the possession of the public, *In re Payne*, 203 U.S.P.Q. at 245. Hence, claims 85, 90-92 and 119 are nonobvious and patentable over Watanabe, Ishikawa and Wu and the rejection under 35 U.S.C. §103 is overcome. Reconsideration is respectfully requested.

The foregoing is believed to be a comprehensive response to the rejections under 35 U.S.C. § 103 set forth in the Office Action dated March 27, 2008. Nonetheless if the Examiner feels that issues remain or requires clarification of the above, she is earnestly solicited to contact Applicants' agent at the number listed below. Otherwise reconsideration and an early allowance are respectfully requested.

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